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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID SLACK, individually, and on behalf
of all others similarly situated, *et al.*

Plaintiffs,

vs.

INTERNATIONAL UNION OF
OPERATING ENGINEERS, a trade union, *et al.*

Defendants.

Case No.: 3:13-cv-05001-EMC

CLASS ACTION

**STIPULATION BETWEEN PLAINTIFFS
AND DEFENDANTS JAMES D. SPAIN,
ANDREW LAGOSH, DENNIS DORTON,
STANLEY GREEN, JIM GRAHAM,
GLENN SMITH, MICHAEL BRANDT
III; [PROPOSED] ORDER**

TO THE COURT, TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

This Stipulation is entered into by and between all Plaintiffs and Defendants James D. Spain, Andrew Lagosh, Dennis Dorton, Stanley Green, Jim Graham, Glenn Smith, and Michael Brandt III (collectively, "Stipulating Defendants") (Plaintiffs and Stipulating Defendants are "the Parties") for the purpose of correcting an inadvertent error in the First Amended Complaint. The Stipulation is entered into based upon the following facts:

- 1 A. The First Amended Complaint (FAC) was filed in this matter on January 27, 2014.
- 2 B. In Paragraph 84 of the FAC, Plaintiffs collectively identified a number of the
- 3 Defendants using the defined term “ERISA Defendants.” Subsequently, Plaintiffs
- 4 sometimes reference those identified Defendants collectively, using the defined term
- 5 the “ERISA Defendants,” in alleging how the “ERISA Defendants” allegedly acted or
- 6 failed to act. However, the Parties recently realized that certain individuals, namely,
- 7 the Stipulating Defendants, were erroneously listed as among the “ERISA
- 8 Defendants” in Paragraph 84 of the FAC.
- 9 C. After being advised of the error, counsel for Plaintiffs agreed to stipulate to the
- 10 striking of the Stipulating Defendants from Paragraph 84.
- 11 D. The Parties to this Stipulation do not offer it for any dilatory purpose. Rather, the
- 12 Stipulation is entered into solely to minimize inconvenience to the Court, the Parties,
- 13 and their counsel.

14 Therefore, Plaintiffs and the Stipulating Defendants, desiring to efficiently manage this

15 complex matter, and desiring to resolve issues amongst themselves to the extent possible, hereby

16 stipulate as follows:

- 17 A. The names of Defendants James D. Spain, Andrew Lagosh, Dennis Dorton, Stanley
- 18 Green, Jim Graham, Glenn Smith, and Michael Brandt III shall be stricken from
- 19 Paragraph 84 of the FAC.

20 Respectfully submitted,

21 Dated: May 13, 2014

MOORE & LEVIANT LLP

22 By: /s/ H. Scott Leviant

23 J. Mark Moore
24 H. Scott Leviant

BERNS WEISS LLP

25 Jeffrey K. Berns
26 Lee A. Weiss
27 Albert G. Lum

Attorneys for Plaintiffs

28 [Signatures continued on next page]

1 Dated: May 13, 2014

LAW OFFICE OF KENNETH C. ABSALOM

2
3 By: /s/ George R. Nemiroff

4 Kenneth C. Absalom

George R. Nemiroff

5 Attorney for Defendants Russell E. Burns, Dan
6 Reding, Jim Sullivan, Carl Goff, Steve Ingersoll,
7 Mike Croll, Justin Diston, Steve Harris, Pane
8 Meatoga, Nate Tucker, James D. Spain, Andrew
9 Lagosh, Dennis Dorton, Stanley Green, Jim Graham,
10 Glenn Smith, and Michael Brandt III
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ECF CERTIFICATION

Pursuant to Local Rule 5-1(i)(3), the filing attorney attests that he has obtained concurrence regarding the filing of this document from the signatories to the document.

Dated: May 13, 2014

MOORE & LEVIANT LLP

By: /s/ H. Scott Leviant

J. Mark Moore

H. Scott Leviant

ORDER

Pursuant to the stipulated request of the parties, and good cause appearing, IT IS
HEREBY ORDERED that:

1. The names of Defendants James D. Spain, Andrew Lagosh, Dennis Dorton, Stanley Green, Jim Graham, Glenn Smith, and Michael Brandt III are stricken from Paragraph 84 of the FAC.

IT IS SO ORDERED:

5/16/14

Dated: _____

UNITED STATES

